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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

M.A. No.978 of 2006

APPELLANT (NON-APPLICANT)	:	Kartik Ram Nishad, S/o. Bhagwani Nishad, (aged about 27 years), R/o. village Dwarikadih (Daukidih Khapparwada), Post-Anda, Tahsil – Gunderdehi, District Durg (C.G.)

VERSUS

RESPONDENT (APPLICANT)	:	Smt. Komin Bai, W/o. Kartik Ram Nishad, aged 25 years, R/o. village-Sonpur, tahsil Patan, District Durg (C.G.)

Present: Shri M.P.S. Bhatia, learned counsel for the appellant.

ORAL ORDER
(Passed on 14th August, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

The paramount consideration for entrusting the custody of a minor child is the welfare of the child. The Family Court having taken into account that after separation of the appellant with the respondent, the appellant has contracted second marriage and therefore, it is appropriate that the child which is only five years of age should remain in the custody of the mother, has given the custody of the child to the mother. Though it was contended by the appellant-father before the Family Court that the child was aged seven years, the Family Court has found, as a matter of fact, the child is aged only five years. Therefore, it cannot be said that the Family Court has not exercised

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the discretion judiciously nor in the interest of the minor child. Looking from any angle, this is not a fit case where we should step-in and upset the discretionary order made by the Family Court. The appeal is devoid of merit and it is accordingly dismissed.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Subbu